



California Fair Political Practices Commission

November 18, 1988

Craig R. Nealis
Deputy City Administrator
City of Bellflower
16600 Civic Center Drive
Bellflower, CA 90706-5494

Re: Your Request for Informal
Assistance
Our Advice File No. I-88-368

Dear Mr. Nealis:

We have received your letter regarding the prohibition of publicly funded newsletters and mass mailings under the Political Reform Act.^{1/} Your letter states only a general question. Therefore, we consider it to be a request for informal assistance pursuant to Commission Regulation 18329(c) (copy enclosed).^{2/}

The advice is based upon emergency Regulation 18901 which was adopted by the Commission in July. A public hearing on permanent Regulation 18901 will be held on December 6, 1988. The permanent regulation may alter our advice. A copy of the notice and text of that permanent regulation is enclosed.

QUESTION

You have requested clarification of the restriction on newsletters and other mass mailings sent at public expense. Specifically, you are interested in restrictions on the city's mass mailings when the names of elected officials may appear in the letterhead or a roster.

^{1/} Government Code Sections 81000-91015. All statutory references are to the Government Code unless otherwise indicated. Commission regulations appear at 2 California Code of Regulations Section 18000, et seq. All references to regulations are to Title 2, Division 6 of the California Code of Regulations.

^{2/} Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Government Code Section 83114; 2 Cal. Code of Regs. Section 18329(c) (3).)

CONCLUSION

Emergency Regulation Section 18901 provides that a mailing is not prohibited if it is mailed by an elected officer's agency, on the agency's official stationery, forms and envelopes, and the elected officer's name only appears on the standard letterhead or logotype of the stationery, forms or envelopes. There must be no other references to the officer, including his or her photograph or signature, in the mailing.

ANALYSIS

Government Code Section 89001 was amended by Proposition 73, the campaign finance reform initiative on the June 1988 statewide primary ballot. Section 89001 provides that no newsletter or other mass mailing shall be sent at public expense.

Section 82041.5 defines "mass mailing." Section 82041.5 was also amended by Proposition 73, to provide:

"Mass mailing" means two hundred or more substantially similar pieces of mail, but does not include a form letter or mailing which is sent in response to an unsolicited request, letter or other inquiry."

The Commission, at its July 26, 1988 meeting, adopted emergency Regulation 18901 (copy enclosed) which permits the mailing of certain newsletters or mass mailings at public expense. It was the Commission's belief that the voters did not intend to prohibit essential governmental mailings, but rather to prevent elected officers from using governmental newsletters or other mass mailings to promote their own incumbency.

Regulation 18901 provides that a mailing is not prohibited under Section 89001 if:

- (1) It is mailed by an elected officer's agency;
- (2) The stationery, forms and envelopes used for the mailing are the official stationery, forms and envelopes of the agency; and
- (3) The elected officer's name appears, if at all, only on the standard letterhead or logotype of the stationery, forms or envelopes and there are not other

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references to the officer, including his or her photograph or signature, in the mailing.

(Regulation 18901(b).)

The emergency regulation permits the name of an elected officer to be included in the standard letterhead or logotype of the agency's official stationery. An example would be the manner your city's stationery lists its elected officers. An elected officer's photograph, signature or other reference would be prohibited.

An example of the use of a "logotype" would be a publication such as a community college district's schedule of classes. The schedule will typically contain the name or logo of the college and a list or roster of its superintendent, trustees, registrar, dean of instruction, etc. Regulation 18901 permits such a publication to be sent at public expense. Again, no photographs, signatures or other reference to an elected officer are permitted.

We have advised agencies that the individualized stationery of the elected officer is not the standard letterhead of the agency. An elected officer's name can only appear on the standard official letterhead of the city, not that which is the personalized stationery of the elected officer.

The Commission will be considering a permanent regulation on newsletters and mass mailings at its December 6, 1988 meeting. That regulation may provide more flexibility in the types of mass mailings which are permitted.

I trust this letter responds to your question. Please feel free to call if you have any specific questions or wish to discuss this further.

Sincerely,

Diane M. Griffiths
General Counsel

By: Jeanette E. Turvill
Political Reform Consultant
Legal Division

DMG:JET:aa

Enclosures



CITY OF BELLFLOWER

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JOSEPH CVETKO
COUNCILMAN

September 20, 1988

Ms. Jeanette Turvill
Legal Division
Fair Political Practices Commission
428 J Street
Sacramento, California 95814

Dear Ms. Turvill:

We recently received information from the League of California Cities regarding Proposition 73's effects on Section 89001 of the California Government Code as it relates to the mailing of newsletters or other mass mailings at public expense.

However, there appears to be some confusion. We respectfully request a written response as to the methods in which rosters or names of elected officials names can be used in newsletters or other mass mailings sent at public expense.

We appreciate any information you can provide regarding this issue. Should you require any additional information, please do not hesitate to call. Thank you for your help. Best wishes and best regards from the "Friendly City of Bellflower."

Sincerely,

Jack A. Simpson
City Administrator

Craig R. Nealis
Deputy City Administrator
City of Bellflower

JAS:CRN:cd

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